

REPRESENTATIVE FOR PETITIONER: Joseph D. Bartlett, Attorney

REPRESENTATIVE FOR RESPONDENT: Eric Grossman, Tippecanoe County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Lafayette Masonic Lodge 123,)	Petition:	79-005-18-2-8-00440-19
)		
Petitioner,)	Parcel	79-07-16-804-001.000-005
)		
v.)	County:	Tippecanoe
)		
Tippecanoe County Assessor,)	Assessment Year:	2018
)		
Respondent.)		

January 27, 2020

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. The Lafayette Masonic Lodge 123 (“Lodge”) bought a vacant lot that was not exempt from property tax, with plans to build on it. The Lodge filed a late application seeking a charitable and educational exemption. The Lodge requested that the Board grant the exemption or order some equitable relief even though it missed the filing deadline. Because the Board does not have the authority to waive statutory deadlines or grant equitable relief, we find the subject property to be 100% taxable for the 2018 assessment year.

PROCEDURAL HISTORY

2. The Lodge filed its exemption application on June 11, 2018, past the April 1, 2018 due date. The PTABOA denied the application for 2018 but granted a charitable property tax exemption for 2019.¹ The Lodge appealed this determination to the Board.
3. The Board's designated Administrative Law Judge, Jennifer Thuma ("ALJ"), held a hearing on October 30, 2019 in Tippecanoe County. Stewart Schreckengast, Treasurer and Trustee, and Leonard Wilson, Chairman of the Fundraising Committee, were sworn as witnesses for the Lodge. Eric Grossman, Tippecanoe County Assessor, and Christopher Coakes, Valuation Specialist, were sworn as witnesses for the Assessor.

4. The following exhibits were admitted without objection:

Petitioner Exhibit 1:	Notice of Hearing on Petition & Letter to Board
Petitioner Exhibit 2:	Personal Property Return
Petitioner Exhibit 3:	Petition for Review-Appeal
Petitioner Exhibit 4:	Property Tax Bill
Petitioner Exhibit 5:	Notice of Assessment
Petitioner Exhibit 6:	PTABOA Decision
Petitioner Exhibit 7:	Form 130
Petitioner Exhibit 8:	Property Tax Bill-Detail
Petitioner Exhibit 9:	Form 136-Application for Tax Exemption
Petitioner Exhibit 10:	Notice of Assessment
Petitioner Exhibit 11:	Property Tax Bill 2018
Petitioner Exhibit 12:	Property Tax Bill-Detail (2018)
Petitioner Exhibit 13:	Sales Disclosure Form
Petitioner Exhibit 14:	Beacon Record-Tippecanoe County
Petitioner Exhibit 15:	Beacon Record-Tippecanoe County
Petitioner Exhibit 16:	Beacon Record-Tippecanoe County
Respondent Exhibit 1:	Property Narrative
Respondent Exhibit 2:	Subject Property Record Card
Respondent Exhibit 3:	Subject Property 2018 Form 146
Respondent Exhibit 4:	Subject Property 2018 Form 120
Respondent Exhibit 5:	Indiana Code-Exemptions

¹ The PTABOA determination states the subject property was 100% exempt for the 2018 assessment date. This was apparently a scrivener's error, as both parties agreed the PTABOA only granted an exemption for the 2019 assessment date. *Grossman testimony; Form 132 application, Resp't Ex. 1.*

5. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or the Board's ALJ; (3) an audio recording of the hearing.

FINDINGS OF FACT

6. The Lodge bought the vacant lot located at 55 Blitz Drive in November of 2017 for \$100,000 from Fairfield Builder's Supply Corporation, a land developer. After receiving its tax bill, the Lodge then applied for educational and charitable tax exemptions on June 11, 2018. The statutory deadline for filing an exemption application for the 2018 assessment year was April 1, 2018. Indiana Code § 6-1.1-11-3(a)(2). *Schreckengast testimony; Grossman testimony; Pet'r Ex. 7, 13.*

CONCLUSIONS OF LAW

7. We first note that both parties spent a considerable amount of time addressing the valuation of the subject property. This was an exemption appeal, thus we may only consider whether the subject property should be exempt from taxation for the year under appeal. Based on the testimony, it appears the Lodge may still have a Form 130 valuation appeal pending at the county. Thus, it will have an opportunity to address its valuation claims through that process. We now turn to the exemption claim.
8. While property is generally taxable in Indiana, the legislature exempts certain types of properties from taxation. The taxpayer bears the burden of proving that it is entitled to an exemption. *Hamilton County Property Tax Assessment Bd. of Appeals v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654, 657 (Ind. 2010). I.C. § 6-1.1-10-16 (a) provides an exemption for all or part of a building that is owned and exclusively or predominately used and occupied for educational, literary, scientific, religious, or charitable purposes. *See also* I.C. § 6-1.1-10-36.3 (c).
9. Indiana statutes provide the general rule that if a property owner does not comply with the procedures for obtaining an exemption, the exemption is waived. If the exemption is

waived, the property is subject to taxation per I.C. § 6-1.1-11-1. Exemption applications must be filed by April 1 of the assessment year. I.C. § 6-1.1-11-3(a)(2).

10. The Lodge admits that its exemption application was late, but asks the Board to either waive the deadline or reduce their tax liability for the 2018 assessment year as an equitable remedy. The Board is a creation of the legislature, and it has only those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 1093, 1096 (Ind. Tax Ct. 2002) citing *Matonovich v. State Bd. of Tax Comm'rs*, 715 N.E.2d 1018, 1021 (Ind. Tax Ct. 1999). The Lodge has pointed to no authority, nor are we aware of any, that gives the Board the power to either waive deadlines or grant an equitable remedy. Thus, we are compelled to find that because the Lodge filed their exemption application beyond the statutory deadline, the subject property is 100% taxable for the 2018 assessment year.

CONCLUSION

11. The Lodge's exemption application was not timely filed. Thus, the subject property is 100% taxable for the 2018 assessment year.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.